

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**UNITED STATES OF AMERICA,
Plaintiff,**

*
*
*
*
*

vs.

**TRENT MICHAEL TRUBENBACH
AND NIEVA CAFÉ TRUBENBACH,
Defendants.**

*
*
*
*
CIVIL NO. 4:18-cv-00693

UNITED STATES' ORIGINAL COMPLAINT

For its original complaint, authorized and requested by a duly authorized delegate of the Secretary of the Treasury of the United States of America, and directed on behalf of the United States Attorney General or his delegate, pursuant to 26 U.S.C. §§ 7401 and 7403, the United States alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action brought by the United States to: (1) reduce to judgment and collect the personal federal income (Form 1040) tax liabilities of Defendants Trent Michael Trubenbach and Nieva Café Trubenbach in the amount of **\$1,079,992.27**; (2) foreclose federal tax liens on the real property located at 10699 Strittmatter Road and 10660 Strittmatter Road, Pilot Point, Denton County, Texas 76258, more particularly described below, currently titled to Trent Trubenbach; and (3) obtain a judicial sale of the real property to apply the net sales proceeds to the federal income tax liabilities of the Defendants.

2. This Court has jurisdiction pursuant to 26 U.S.C. §§ 7402 and 7403, and 28 U.S.C. §§ 1340 and 1345.

3. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff is the United States of America.

5. Defendant Trent Michael Trubenbach is one of the taxpayers or persons against whom the tax liabilities are sought to be collected through this lawsuit. On information and belief, Mr. Trubenbach is in the oil and gas business. He may be served at 10699 Strittmatter Road, Pilot Point, Texas 76258, one of the properties the Government seeks to foreclose on and sell through this lawsuit.

6. Defendant Nieva Café Trubenbach is the wife of Mr. Trubenbach. Mrs. Trubenbach is one of the taxpayers or persons against whom the tax liabilities are sought to be collected through this lawsuit. On information and belief, Mrs. Trubenbach is a homemaker, and is not employed outside the home. She may be served at 10699 Strittmatter Road, Pilot Point, Texas 76258, one of the properties the Government seeks to foreclose on and sell through this lawsuit.

FACTUAL BACKGROUND

A. **THE TAX LIABILITIES**

7. A delegate of the Secretary of the Treasury assessed against Defendants Trent and Nieva Trubenbach, jointly and severally, certain income (Form 1040) taxes, penalties, interest, and statutory additions on the dates and for the periods stated below:

TYPE OF TAX	TAX YEAR	ASSESSMENT DATE	BASIS OF ASSESSMENT	UNPAID ASS'D BALANCE	PENALTY & INTEREST	TOTAL OWED AS OF 04/05/2018
Income Form 1040	12/31/2011	02/22/2016	Self-reported tax	\$40,399.67	\$3,907.05	\$44,306.72
Income Form 1040	12/31/2012	07/20/2015	IRC 6020(b) SFR/ASFR	\$355,777.14	\$46,733.85	\$402,510.99
Income Form 1040	12/31/2013	02/29/2016	Self-reported tax	\$521,487.16	\$95,106.04	\$616,593.20
Income Form 1040	12/31/2015	11/07/2016	Self-reported tax	\$13,044.74	\$3,536.62	\$16,581.36

The unpaid balance of these tax liabilities, as of April 5, 2018, was **\$1,079,992.27**.

B. FEDERAL TAX LIENS

8. On or about April 20, 2016, September 22, 2016, and March 7, 2017, notices of federal tax liens were filed against the Defendants in Denton County, Texas for the unpaid federal income taxes listed above.

C. REAL PROPERTY PURCHASES

9. On or about February 1, 2011, Defendant Trent Trubenbach purchased, by warranty deed with vendor's lien, from Paul Redfearn, the real property located at 10699 Strittmatter Road, Pilot Point, Denton County, Texas 76258, described as follows:

BEING ALL THAT CERTAIN LOT, TRACT OR PARCEL OF LAND SITUATED IN THE CHARLES SMITH SURVEY, ABSTRACT NO. 1139, DENTON COUNTY, TEXAS, AND BEING PART OF A TRACT SHOWN BY DEED TO M.S. HURSTON ON THE 23RD DAY OF OCTOBER, 1930, AND

RECORDED IN VOLUME 283, PAGE 282, OF THE DEED RECORDS OF DENTON COUNTY, TEXAS.

This deed was recorded on February 10, 2011, in the Denton County, Texas real property records, as Instrument Number 2011-13094. On or about July 7, 2014, Mr. Redfearn executed a release of his vendor's lien on the above real property, and this release of lien was recorded on October 15, 2014 in the real property records of Denton County, Texas, as Instrument Number 2014-105060. On information and belief, except for the federal tax liens referred to above, the above-described real property is unencumbered, and no ad valorem taxes pertaining to the property are currently due.

10. On or about July 27, 2012, Defendant Trent Trubenbach purchased, by special warranty deed, from Northstar Bank of Texas, the real property located at 10660 Strittmatter Road, Pilot Point, Denton County, Texas 76258, described as follows:

ALL THAT CERTAIN LOT, TRACT, OR PARCEL OF LAND SITUATED IN THE C. SMITH SURVEY, ABSTRACT NUMBER 1139, DENTON COUNTY, TEXAS, AND BEING A PART OF A 11.386 ACRE TRACT DESCRIBED IN A DEED FROM ROBERT DONALD STEPHENS AND DONNA STEPHENS TO DIANNA MACDONALD AS RECORDED IN VOLUME 4527, PAGE 1771 OF THE REAL PROPERTY RECORDS OF DENTON COUNTY, TEXAS.

This deed was recorded on July 30, 2012, in the Denton County, Texas real property records, Instrument Number 2012-82623. The above-described property is adjacent to the Trubenbachs' residence, also described above. On information and belief, except for the federal tax

liens referred to above, the above-described real property is unencumbered, and no ad valorem taxes pertaining to the property are currently due.

COUNT I
JUDGMENT FOR TAX LIABILITIES

11. Despite assessment, notice and demand for payment of the above-described federal income (Form 1040) income tax liabilities, Defendants Trent and Nieva Trubenbach have failed, neglected or refused to fully pay those liabilities to the United States. Accordingly, the United States is entitled to a judgment that Defendants Trent and Nieva Trubenbach are jointly and severally liable to and owe the United States the sum of **\$1,079,992.27** for their income tax liabilities, plus penalties, statutory additions, and additional prejudgment and post-judgment interest thereon from April 5, 2018 until paid, pursuant to 28 U.S.C. § 1961(c)(1); and 26 U.S.C. §§ 6601, 6621(a)(2), and 6622. The United States seeks to reduce these tax liabilities to judgment against Defendants Trent and Nieva Trubenbach.

COUNT II
FORECLOSE FEDERAL TAX LIENS AGAINST REAL PROPERTIES

12. The subject real properties described above were acquired by Defendant Trent Trubenbach before the tax assessments were made against the Defendants, and remain titled to Mr. Trubenbach.

13. Pursuant to 26 U.S.C. §§ 6321 and 6322, statutory federal tax liens arose in favor of the United States against all property and rights to property, whether real or personal, belonging to the Defendants as of the date of the tax assessments described above, and have attached to the subject real properties.

14. Accordingly, the United States is entitled to judgment foreclosing the federal tax liens against the real properties titled to Trent Trubenbach, and ordering the properties sold in payment or partial payment of the above-described federal income (Form 1040) tax liabilities of the Defendants. The United States also seeks a judgment determining the interest, if any, of Defendant Nieva Trubenbach in the subject real properties.

WHEREFORE, the United States respectfully requests that this Court order, adjudge, and decree:

1. That Defendants Trent and Nieva Trubenbach are jointly and severally liable to the United States of America (Internal Revenue Service) for their federal income (Form 1040) taxes in the amount of **\$1,079,992.27**, plus penalties, statutory additions, and additional prejudgment and post-judgment interest thereon from April 5, 2018, until paid, pursuant to 28 U.S.C. § 1961(c)(1); and 26 U.S.C. §§ 6601, 6621(a)(2), and 6622;
2. That the federal tax liens that encumber the real properties described above be foreclosed, that the properties be ordered sold by the Internal Revenue Service or a Court-appointed receiver, that the sales proceeds be first applied to the costs of the sale, then any unpaid ad valorem taxes, and that the proceeds be applied in satisfaction or partial satisfaction of the tax liens of the United States and the federal income tax liabilities of Defendants Trent and Nieva Trubenbach, and if the proceeds are insufficient to full pay the federal income tax liabilities of the Defendants, then the Court enter a deficiency judgment against them and in favor of the United States;
3. That in the event that the United States avails itself of pre-judgment and post-judgment remedies under Sub-chapter B or C of the Federal Debt Collection Act, then the United States be awarded a surcharge of ten percent of the amount of the tax debt under 28

U.S.C. § 3011, to cover the cost of the litigation and enforcement of the claim for the debt to be paid by Defendants Trent and Nieva Trubenbach; and

4. That the United States be awarded other such relief as is just and proper.

Respectfully submitted,

/s/ Ramona S. Notinger
RAMONA S. NOTINGER
Texas Bar No. 19158900
U.S. Department of Justice
Tax Division
717 North Harwood Street
Suite 400
Dallas, Texas 75201
(214) 880-9766 fax: (214) 880-9742

JOSEPH D. BROWN
UNITED STATES ATTORNEY

ATTORNEYS FOR UNITED STATES

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Ramona S. Notinger, U.S. Department of Justice, Tax Division
717 N. Harwood Street, Suite 400, Dallas, TX 75201
(214) 880-9766

DEFENDANTS

Trent Michael Trubenbach and Nieve Cafe Trubenbach

County of Residence of First Listed Defendant Denton(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud	LABOR	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence	FEDERAL TAX SUITS	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	Habeas Corpus:	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
		<input type="checkbox"/> 462 Naturalization Application		
		<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)		
		<input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation
---	---	--	---	--	---

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
26 USC Sections 7401 and 7403 and 28 USC Sections 1340 and 1345**VI. CAUSE OF ACTION**Brief description of cause:
Reduce tax to judgment and foreclosure on property.**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$
1,079,992.27CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/02/2018

/s/ Ramona S. Notinger

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.